

7th March 2017

Report of	Monitoring Officer	Author	Andrew Weavers ☎ 282213
Title	Amendments to the Council's Covert Surveillance Policy		
Wards affected	Not applicable		

This report requests the Committee to approve amendments to the Council's Covert Surveillance Policy following recommendations made in an Office of Surveillance Commissioners inspection report

1. Decision(s) Required

- 1.1 To note the outcome of the recent Office of Surveillance Commissioners inspection report.
- 1.2 To approve the amended Covert Surveillance Policy and the Use of Social Media in Investigations Policy and Procedure and that both policies be recommended to Council for inclusion in the Council's Policy Framework.

2. Background

- 2.1 The Office of Surveillance Commissioners ("OSC") approximately every three years inspect Local Authority's procedures in relation to their use of surveillance powers under the Regulation of Investigatory Powers Act 2000 ("RIPA"). The Council was last inspected in 2013. In previous years the OSC has physically attended at the Council's offices to inspect documentation and interview relevant staff, before writing their report.
- 2.2 The Council's current Covert Surveillance Policy was approved by this Committee at its meeting on 11 October 2016 as part of its annual review of the Council's Ethical Governance Policies.

3. The Inspection

- 3.1 The OSC decided to introduce a new approach to inspections particularly where a Council had reduced the use of RIPA (for example this Council has not used the powers since the last inspection). Authorities were asked to complete a detailed questionnaire, plus supply supporting documentation including policies and procedures, record keeping, training etc. That questionnaire was then considered by the OSC, before deciding whether an on- site inspection was required. After completing the questionnaire the OSC were broadly satisfied with the information given and sought a telephone call with the Senior Responsible Officer (the Monitoring Officer) in order to clarify some minor points and discuss the Council's approach to RIPA.
- 3.2 The OSC report was received in November 2016 and is very positive in terms of the Council's policies and the organisation's approach generally. There were some additions suggested to the Council's Covert Surveillance Policy which would improve its effectiveness. The amended Policy is attached at Appendix A to this report with the suggested additions shown in tracked changes.

4. Detailed Information

- 4.1 Covert Human Intelligence Source - the OSC suggested that whilst paragraph 2.4 of the Policy makes it clear that the use of a Covert Human Intelligence Source is forbidden, the paragraph should be expanded to include situations where a Covert Human Intelligence Source scenario might inadvertently arise together with the necessity of ensuring an individual's rights under Article 8 of the European Convention on Human Rights.
- 4.2 Authorising Officers - the number of Authorising Officers mentioned in paragraph 4 has been reduced from ten to four.
- 4.3 Social Media - the OSC recommended the inclusion of a new provision to deal with social/ personal media and related problems of online covert activity given the present day widespread use of personal sites and search engines. This recommendation is being made to all Local Authorities whose Policy did not deal with social media. Accordingly, the Policy has been amended at paragraph 9 and The Use of Social Media in Investigations Policy attached at Appendix B of this report is designed to provide guidance to officers around the use of social media involved in the investigation of potential criminal offences on behalf of the Council. This policy accords with current best practice as identified by the OSC.
- 4.4 It is currently the case that many of the Council officers who regularly investigate matters as part of their duties already use various forms of social media to assist them when conducting their investigations. This Policy will help manage and regulate that use to ensure it remains lawful and does not inadvertently render evidence as inadmissible, should a case proceed to court.
- 4.5 Training - the OSC highlighted the need for regular training for all officers potentially involved in the process and this will be provided in the near future as part of the roll out of the new Policy once it is adopted.

5. Strategic Plan References

- 5.1 The manner in which the Council governs its business is an underpinning mechanism in the Council's Strategic Plan aims to set out the direction and future potential for our Borough.

6. Financial, Equality, Diversity and Human Rights, Publicity, Consultation, Community Safety, Health and Safety and Risk Management Implications

- 6.1 None.